APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,771	02/12/2002	Steven D. Williams	PW 0246909 P12608	7170

8791   7590   06/06/2005

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

EXAMINER
GANTT, ALAN T

ART UNIT	PAPER NUMBER
2684	

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/074,771	WILLIAMS, STEVEN D.
	Examiner	Art Unit	
	Alan T. Gantt	2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>03 January 2005</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-3,5-13,15-21,23-29 and 31-45* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-3,5-13,15-21,23-29 and 31-45* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All   b)☐ Some * c)☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 1/3/05 have been fully considered but they are not persuasive. Applicant primarily argues that his invention is directed to a system capable of recording audio broadcasts from both the radio and the Internet by using web pages as a user interface and that that Franco, the primary reference, does not teach or suggest remotely recording Internet broadcasts The examiner is in agreement with this statement. However, applicant's claim language of each of his independent claims states that the input signal is receivable via at least the Internet and a radio transmission. The examiner contends that, with this definition of the input signal, the referenced prior art doe indeed meet applicant's claim language. This language can be interpreted as being "the signal is receivable via the Internet and the signal is receivable via a radio transmission and the signal may be receivable by other mediums as well". Since Franco in combination with the Heredia reference meets the claim limitations for the input signal being a radio transmission, applicant's claim language is, therefore, met. All that applicant's claim language requires is that "at least one tuner/sampler device to receive and sample the input signal". The Franco/ Heredia combination does this task. Applicant's invention is capable of receiving the input signal via the Internet, RF input, etc. The claim language is not stating this. Thus, the Rejection stands.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3, 5-13, 15-21, 23-29, and 31-45 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Franco, in view of Heredia et al.

Regarding claim 1, Franco discloses a method to use web pages to remotely program a

broadcast content recording system. A user can select content of interest and program the system

from almost any location using a web browser. The host system creates programming data and

transmits the data to the user's recording system. A client-programming module configured to

receive he transmissions from the host system can be used to program a conventional recording

device (Abstract). Franco may also be utilized for audio only (paragraph 0060). Thus, Franco

discloses a system to record an input signal representing an audio signal and meets the

limitations:

a reception controller device to configure settings of the at least one tuner/sampler

device; (paragraphs 0013 and 0021)

a recordation control device to control the recording of the input signal, wherein

the recordation control device controls the reception controller device; (paragraph 0092)

and

a communication device to receive recording instructions from a remote device

and transmit the recording instructions to the at least one tuner/sampler device, wherein

the communication device receives the recording instructions via at least a network.

(paragraphs 0092 and 0108)

Franco is silent regarding the specifics of a tuner apparatus that includes Internet broadcasts.

Heredia discloses a system for automatic assignment and tuning of radio call letters to

radio presets. Signal information is stored with the signal and medium selection data so that

signal sources provided with different communication media, such as broadcast radio and

Internet streaming audio can be accessed, sorted selected, and displayed together. Also, a

currently selected signal source and communication medium can be matched with a different

communication medium for the same source, so that if the received signal deteriorates, the

receiver can switch to the different communication medium for receipt of the same signal

(Abstract). Thus, Heredia meets the following limitations:

at least one tuner/sampler device to receive and sample the input signal, wherein

the input signal is receivable via at least (a) an Internet and (b) a radio transmission; (col.

3, lines 8-21, col. 4, lines 10-20, and col. 5, lines 38-43)

Franco and Heredia are combinable since they both share a common endeavor, namely,

devices that involve broadcast and Internet media. At the time of the applicant's invention it

would have been obvious to modify Franco to include a means of setting remote recording

means as done by Heredia to allow configuring of a recording device remote from the user.

Regarding claim 2, 12, Heredia meets the limitation - wherein the input signal is a

streaming signal broadcast via the Internet. (col. 1, lines 56-61)

Regarding claim 3, 13, 21, and 29, Heredia meets the limitation - wherein the recording instructions include settings for a source Internet Protocol (IP) address. (col. 6, lines 48-55 – in combination with Franco, Heredia allows a preset that includes an IP address setting)

Regarding claim 5, 15, 23, and 31, Franco meets the limitation - further including a web server to publish a web page for at least the one-tuner/ sampler device. (paragraph 0064)

Regarding claim 6, Franco meets the limitation –the system of claim 1, wherein the reception controller device is housed with the recordation control device. (Paragraph 0092- this device can take multiple forms)

Regarding claims 7, 16, 24, and 32, the limitation - wherein the recordation control device includes a continual recording device to constantly record a signal, and when prompted by a user, continue to record the signal and save to a file, along with signal data that was recorded up to a predetermined time before the user's prompt - it is well known to utilize continual recording and to save to a file up to a predetermined time and it would have been obvious to modify the Franco / Heredia combination so that items would not missed in the recording process as done in a security monitoring situation.

Regarding claim 8, 17, 25, and 33, Franco meets the limitation - wherein the remote

device is a computer executing a web browser program to send the recording instructions to the

communication device. (Figure 1, paragraphs 0062-0064)

Regarding claim 9, 18, 26, and 34, Heredia meets the limitation - wherein the recordation

control device further includes a determination device to determine which of the at least one

tuner/sampler device receives the best input signal to record. (col. 6, lines 48-65)

Regarding claim 10, 19, 27, and 35, Franco meets the limitation - The system of claim 1,

wherein the communication device includes a contact device to contact a programming directory

to determine available programs transmitted in the input signal to the at least one tuner/sampler

device. (Figure 14 –electronic program guide)

Regarding claim 11, Franco discloses a method to use web pages to remotely program a

broadcast content recording system. A user can select content of interest and program the system

from almost any location using a web browser. The host system creates programming data and

transmits the data to the user's recording system. A client-programming module configured to

receive he transmissions from the host system can be used to program a conventional recording

device (Abstract). Thus, Franco discloses a method to record an input signal representing an

audio signal and meets the limitations:

> configuring settings of at least one tuner/sampler device; (paragraphs 0013 and
> 0021)

recording the input signal; (paragraph 0092) and

receiving recording instructions from a remote device, wherein the recording

instructions are at least receivable via a network. (paragraphs 0092 and 0108)

Franco is silent regarding the specifics of a tuner apparatus that includes Internet broadcasts.

Heredia discloses a system for automatic assignment and tuning of radio call letters to

radio presets. Signal information is stored with the signal and medium selection data so that

signal sources provided with different communication media, such as broadcast radio and

Internet streaming audio can be accessed, sorted selected, and displayed together. Also, a

currently selected signal source and communication medium can be matched with a different

communication medium for the same source, so that if the received signal deteriorates, the

receiver can switch to the different communication medium for receipt of the same signal

(Abstract). Thus, Heredia meets the following limitations:

sampling the input signal; (col. 1, lines 35-61)

receiving the input signal, wherein the input signal is receivable via at least (a) an

Internet and (b) a radio transmission; ; (col. 3, lines 8-21, col. 4, lines 10-20, and col. 5,

lines 38-43)

Franco and Heredia are combinable since they both share a common endeavor, namely,

devices that involve broadcast and Internet media. At the time of the applicant's invention it

would have been obvious to modify Franco to include a means of setting remote recording means as done by Heredia to allow configuring of a recording device remote from the user.

Regarding claim 20, Franco discloses a method to use web pages to remotely program a broadcast content recording system. A user can select content of interest and program the system from almost any location using a web browser. The host system creates programming data and transmits the data to the user's recording system. A client-programming module configured to receive he transmissions from the host system can be used to program a conventional recording device (Abstract). Thus, Franco discloses an article a storage medium having stored thereon first instructions that when executed by a machine results and meets the limitations:

configuring settings of at least one tuner/sampler device, (paragraphs 0013 and 0021)

recording the input signal, and receiving recording instructions from a remote device, wherein the recording instructions are at least receivable via a network. (paragraphs 0092 and 0108)

Franco is silent regarding the specifics of a tuner apparatus that includes Internet broadcasts.

Heredia discloses a system for automatic assignment and tuning of radio call letters to radio presets. Signal information is stored with the signal and medium selection data so that signal sources provided with different communication media, such as broadcast radio and Internet streaming audio can be accessed, sorted selected, and displayed together. Also, a

currently selected signal source and communication medium can be matched with a different

communication medium for the same source, so that if the received signal deteriorates, the

receiver can switch to the different communication medium for receipt of the same signal

(Abstract). Thus, Heredia meets the following limitations:

> receiving an input signal, wherein the input signal is receivable via at

least (a) an Internet and (b) a radio transmission, sampling the input signal, ; (col. 3, lines

8-21, col. 4, lines 10-20, and col. 5, lines 38-43)

Franco and Heredia are combinable since they both share a common endeavor, namely, devices

that involve broadcast and Internet media. At the time of the applicant's invention it would have

been obvious to modify Franco to include a means of setting remote recording means as done by

Heredia to allow configuring of a recording device remote from the user.

Regarding claim 28, Franco discloses a method to use web pages to remotely program a

broadcast content recording system. A user can select content of interest and program the system

from almost any location using a web browser. The host system creates programming data and

transmits the data to the user's recording system. A client-programming module configured to

receive he transmissions from the host system can be used to program a conventional recording

device (Abstract). Thus, Franco discloses an apparatus to control the recording of an input signal

representing an audio signal and meets the limitations:

> a reception controller to set an input signal source for at least one

> tuner/sampler device, (paragraphs 0092 and 0108 – client control module serves this

> function)

a receiver to receive recording instructions from at least one communication

device, wherein the at least one communication device receives recording

instructions from a remote device, and the recording instructions are at least

receivable via a network; (paragraphs 0092 and 0108) and

a processing device to control the reception controller. (paragraph 0092)

Franco is silent regarding the specifics of a tuner apparatus that includes Internet broadcasts.

Heredia discloses a system for automatic assignment and tuning of radio call letters to

radio presets. Signal information is stored with the signal and medium selection data so that

signal sources provided with different communication media, such as broadcast radio and

Internet streaming audio can be accessed, sorted selected, and displayed together. Also, a

currently selected signal source and communication medium can be matched with a different

communication medium for the same source, so that if the received signal deteriorates, the

receiver can switch to the different communication medium for receipt of the same signal

(Abstract). Thus, Heredia meets the following limitations:

wherein the input signal is receivable via at least (a) an Internet and (b) a

radio transmission; ; (col. 3, lines 8-21, col. 4, lines 10-20, and col. 5, lines 38-43)

Franco and Heredia are combinable since they both share a common endeavor, namely,

devices that involve broadcast and Internet media. At the time of the applicant's invention it

would have been obvious to modify Franco to include a means of setting remote recording

means as done by Heredia to allow configuring of a recording device remote from the user.

Regarding claims 36, 39, 42, and 44, Franco meets the limitation - wherein the network is

the Internet. (paragraph 0013)

Regarding claims 37 and 40, Franco meets the limitation - wherein the input signal is a

transmitted radio signal. (paragraph 0013)

Regarding claim 38, 41, 43, and 45, Franco meets the limitation - The system of claim 1,

wherein the recording instructions include settings for a source radio frequency channel.

(paragraph 0146 – can be configured to receive broadcast radio)

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication from the examiner should be addressed to

Alan Gantt at telephone number (571) 272-7878. The examiner can normally be reached

between 9:30 AM and 6 PM within the Eastern Time Zone. The group FAX number is (703)

872-9306.

Any inquiry of a general nature or relating to this application should be directed to

Supervisory Patent Examiner Nay Maung at telephone number (571) 272-7882.

Alan T. Gantt

Alan T. Gantt

May 24, 2005

NICK CORSARO
PRIMARY EXAMINER